

REMARKS

Claims 1,2 are pending.

Claims 1,2 stand rejected for obviousness v. Bujaryn in view of Schaevitz.

Claim 1 is currently amended to clarify differences between this application and the cited references so as to put the claims in condition for allowance.

Claim 2 is herein cancelled.

Support for the amendments:

The amendment to the specification is supported in the original disclosure at page 4, lines 14-26, for example.

The amendment to change "foot support" to "ankle support" is supported in the original disclosure in the illustration of use at FIG.5A, for example.

The other amendments to claim 1 are supported by page 6, lines 1-6 and FIG.5A, for example.

In response to the Office Action:

Regarding the rejection of claims 1 for obviousness v. Bujaryn in view of Schaevitz:

Examiner's comments have been carefully considered, however Applicant believes that the threshold criteria for *prima facie* obviousness are not met for the following reasons:

Obviousness requires that the cited references, in combination, contain *all* of the elements and limitations of the instant invention. In addition there must be a "clear and particular" suggestion to combine the references in a manner that would produce the instant invention.

Firstly, Applicant does not believe that the *fixed* seat angle, of 12-15 degrees downward, of the instant invention is obvious from the cited references. Both Bujaryn and Schaevitz have *adjustable* seat angles with wide ranges, Bujaryn's being plus or minus 20 degrees and Schaevitz's being not specified but apparently 0 to minus 90 degrees. While the seat angle of the instant invention lies within these *adjustable* broad ranges, Applicant finds nothing in the cited references which would make obvious, or show any preference for, the specific 12-15 degree *fixed* angle of the instant invention.

The court has affirmed that claimed "ranges which overlap or lie inside ranges disclosed by the prior art may be patentable" if the claimed range is critical to results and is not specifically disclosed in the prior art, see Wertheim (541 F.2d 257, 191 USPQ, 1976) for example. In the current case, the fixed seat angle is necessary in cooperating with the frontal torso positioning device and the ankle support rods to produce the desired healthy posture of an occupant of the chair, as was disclosed on page 5, lines 7-20 and page 6, lines 1-6. Regarding specific disclosure in the cited references, Applicant finds no disclosure or suggestion of preference for, the specific 12-15 degree *fixed* angle of the instant invention.

Applicant respectfully submits that the fixed seat angle of 12-15 degrees in the instant invention is not disclosed or suggested by the combination of Bujaryn and Schaevitz. Reconsideration of the obviousness rejection is respectfully requested.

Secondly, Applicant respectfully submits that the combination of Bujaryn in view of Schaevitz does *not* have all the elements and limitations of the instant invention, and therefore does not meet the threshold requirements for an obviousness rejection of the instant invention, for example:

- a) a *fixed* seat angle of 12-15 degrees, as discussed above;
- b) a frontal torso positioning device having an *L-shape*; and
- c) an *ankle support* positioned to support the front of the ankle with the toes pointing downward.

The neither Bujaryn nor Schaevitz has any of these limitations, nor does Applicant find any suggestion for these limitations.

Applicant respectfully submits that the combination of Bujaryn and Schaevitz does *not* have all the elements and limitations of the instant invention, and therefore does not meet the threshold requirements for an obviousness rejection of the instant invention. Reconsideration of the obviousness rejection of is respectfully requested.

In addition, an adequate suggestion to combine is lacking. Both of the cited references have elements which are not present in the instant invention, such as the backrest and wheels of Bujaryn, and the footpads and vertical support member of Schaevitz. Applicant finds no

suggestion in either reference to discard certain elements and retain others, so as to arrive at the instant invention. Lacking such a suggestion, this process of choosing elements to arrive at the instant invention becomes an exercise in hindsight reconstruction.

Reconsideration of the obviousness rejection of is respectfully requested.

Applicant believes that this amendment answers all instances in which the Examiner rejected or objected, and that the amendment places all remaining claims in condition for allowance.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for issue. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (408) 358-0489.

Respectfully submitted,



Ralph H. Willgoths

Registration Number: 48,800